

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

RICHARD LIMA,

Plaintiff,

v.

WARDEN,

Defendant.

CAUSE NO. 3:22-CV-692-DRL-MGG

OPINION AND ORDER

Richard Lima, a prisoner without a lawyer, proceeds on one claim: “against the Warden of the Westville Correctional Facility in an official capacity to obtain permanent injunctive relief to provide him with constitutionally adequate treatment for his suicidal thoughts as required by the Eighth Amendment.” ECF 2 at 4. After Mr. Lima was transferred to the New Castle Correctional Facility, the Warden filed a motion to dismiss asserting the case is now moot. ECF 30.

“Generally, a district court cannot consider evidence outside the pleadings to decide a motion to dismiss without converting it into a motion for summary judgment.” *Jackson v. Curry*, 888 F.3d 259, 263 (7th Cir. 2018). The pleadings in this case do not contain any evidence of a transfer to New Castle, so the motion to dismiss cannot be granted. Rather than converting the motion to dismiss into a motion for summary judgment, the court will order Mr. Lima to show cause why this case should not be dismissed as moot now that he has been transferred to New Castle because “[i]f a prisoner is transferred to another prison, his request for injunctive relief against officials of the first prison is moot

unless he can demonstrate that he is likely to be retransferred." *Higgason v. Farley*, 83 F.3d 807, 811 (7th Cir. 1996).

For these reasons, Richard Lima is ORDERED to SHOW CAUSE why this case is not moot because he has been transferred. He is CAUTIONED if he does not respond by **February 1, 2023**, this case will be dismissed as moot because there is no showing in the current record that he is likely to be retransferred.

SO ORDERED.

January 12, 2023

s/ Damon R. Leichty
Judge, United States District Court